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*Number 9 of 2006*

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**EMPLOYEES (PROVISION OF INFORMATION AND  
CONSULTATION) ACT 2006**

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Regulations.
3. Right of employees to information and consultation.
4. Application — workforce thresholds.
5. Calculating workforce thresholds.
6. Employees' representative.
7. Process for establishing information and consultation arrangements.
8. Negotiated agreements.
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10. Standard rules on information and consultation.
11. Direct involvement.
12. Co-operation.
13. Protection of employees' representatives.
14. Confidential information.
15. Dispute resolution.
16. Power of Court to administer oaths and compel witnesses.
17. Enforcement.
18. Inspectors.
19. Offences.
20. Penalties.

[No. 9.] *Employees (Provision of Information and Consultation) Act 2006.* [2006.]

21. Notification obligations of transferor to transferee in the event of transfer of an undertaking.
22. Short title and commencement.

SCHEDULE 1

STANDARD RULES ON INFORMATION AND CONSULTATION

SCHEDULE 2

ELECTION OF EMPLOYEES' REPRESENTATIVES

SCHEDULE 3

REDRESS FOR CONTRAVENTION OF SECTION 13(1)

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ACTS REFERRED TO

|  |              |
|--|--------------|
| Courts Act 1981  | 1981, No. 11 |
| Interpretation Act 2005  | 2005, No. 23 |
| Payment of Wages Act 1991  | 1991, No. 25 |
| Protection of Employment Act 1977                                | 1977, No. 7  |
| Trade Union Act 1941   | 1941, No. 22 |
| Transnational Information and Consultation of Employees Act 1996 | 1996, No. 20 |
| Unfair Dismissals Acts 1977 to 2005                              |              |



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*Number 9 of 2006*

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**EMPLOYEES (PROVISION OF INFORMATION AND  
CONSULTATION) ACT 2006**

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AN ACT TO IMPLEMENT DIRECTIVE 2002/14/EC OF THE EUROPEAN PARLIAMENT<sup>1</sup> AND OF THE COUNCIL OF 11 MARCH 2002 BY PROVIDING FOR THE ESTABLISHMENT OF ARRANGEMENTS FOR INFORMING AND CONSULTING EMPLOYEES IN UNDERTAKINGS, TO IMPLEMENT ARTICLE 3(2) OF COUNCIL DIRECTIVE NO. 2001/23/EC OF 12 MARCH 2001<sup>2</sup> ON THE APPROXIMATION OF THE LAWS OF THE MEMBER STATES RELATING TO THE SAFEGUARDING OF EMPLOYEES' RIGHTS IN THE EVENT OF TRANSFERS OF UNDERTAKINGS, BUSINESSES OR PARTS OF UNDERTAKINGS OR BUSINESSES AND TO PROVIDE FOR RELATED MATTERS.

[9th April, 2006]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—(1)** In this Act—

Interpretation.

“appointed” means, in the absence of an election, appointed by the employees and the basis on which that appointment is made may, if the employees so determine, be such as is agreed by them with the employer;

“Commission” means the Labour Relations Commission;

“consultation” means the exchange of views and establishment of dialogue between either or both—

(a) one or more employees,

(b) the employees' representative or representatives,

and the employer;

“contract of employment” means a contract of service or of apprenticeship whether express or implied, and if express, whether oral or in writing;

<sup>1</sup>O.J. No. L080, 23/03/2002, p. 29

<sup>2</sup>O.J. No. L082, 22/03/2001, p. 16

[No. 9.] *Employees (Provision of Information and Consultation) Act 2006.* [2006.]

“Court” means the Labour Court;

“Directive” means Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community;

“employee” means a person who has entered into or works under a contract of employment and references, in relation to an employer, to an employee shall be read as references to an employee employed by that employer;

“employee threshold” has the meaning assigned by *section 7*;

“employees’ representative” has the meaning assigned by *section 6*;

“employer”, in relation to an employee, means the person by whom the employee is employed under a contract of employment;

“excepted body” has the meaning assigned by *section 6(3)* of the Trade Union Act 1941, as amended;

“expert” means an individual, and may be the holder from time to time of a named office or position in a body corporate or other body or organisation;

“information” means transmission by the employer to one or more employees or their representatives (or both) of data in order to enable them to acquaint themselves with the subject matter and to examine it and cognate words shall be read accordingly;

“Information and Consultation Forum” means a Forum established in accordance with *Schedule 1* for the purpose of informing and consulting employees;

“Minister” means Minister for Enterprise, Trade and Employment;

“negotiated agreement” has the meaning assigned by *section 8*;

“pre-existing agreement” has the meaning assigned by *section 9*;

“prescribed” means prescribed by regulations made by the Minister;

“relevant workforce threshold” has the meaning assigned by *section 4*;

“trade union” means a trade union which holds a negotiation licence under Part II of the Trade Union Act 1941, as amended;

“undertaking” means a public or private undertaking carrying out an economic activity, whether or not operating for gain.

(2) A word or expression that is used in this Act and is also used in the Directive has the same meaning in this Act as it does in the Directive.

(3) For the avoidance of doubt, a reference in this Act—

(a) to the negotiation of an agreement establishing information and consultation arrangements or to such an agreement that has been negotiated, or

(b) to an Information and Consultation Forum,

includes a reference—

- (i) to the negotiation of more than one such agreement or, as appropriate, to more than one such agreement that has been negotiated, or
- (ii) to more than one such Forum.

(4) *Subsection (3)* is without prejudice to section 18(a) of the Interpretation Act 2005.

**2.—**(1) The Minister may make regulations prescribing any matter or thing referred to in this Act as prescribed or to be prescribed. Regulations.

(2) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations or for giving full effect to this Act.

**3.—**(1) Subject to the provisions of this Act, an employee employed in an undertaking employing 50 or more employees has a right to information and consultation. Right of employees to information and consultation.

(2) This Act is without prejudice to—

- (a) the information and consultation procedures under the Protection of Employment Act 1977, as amended by the Protection of Employment Order 1996 (S.I. No. 370 of 1996), and the European Communities (Protection of Employment) Regulations 2000 (S.I. No. 488 of 2000),
- (b) the information and consultation procedures under the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003),
- (c) the information and consultation procedures under the Transnational Information and Consultation of Employees Act 1996 and the European Communities (Transnational Information and Consultation of Employees Act 1996) (Amendment) Regulations 1999 (S.I. No. 386 of 1999), and
- (d) any right to information, consultation or participation conferred on employees by any other Act or instrument thereunder.

(3) For the avoidance of doubt, the according to employees of their rights through a European Employees' Forum, an Information and Consultation procedure or a European Works Council established under the Transnational Information and Consultation of Employees Act 1996 or by an agreement under section 6 of that Act, is not sufficient compliance by the employer with this Act.

**4.—**(1) This Act applies—

- (a) from a date to be prescribed (being a date before 23 March 2007) to undertakings with at least 150 employees,

Application —  
workforce  
thresholds.